

2010 - 0176

**Agreement between the Government of the United States of America and the Government of the Republic of El Salvador regarding the transfer of persons to the International Criminal Court**

The Government of the United States of America and the Government of the Republic of El Salvador, hereinafter "the Parties,"

Reaffirming the importance of bringing to justice those who commit genocide, crimes against humanity and war crimes,

Recalling that the Rome Statute of the International Criminal Court done at Rome on July 17, 1998, to which neither the United States of America nor the Republic of El Salvador is a party as of the date of the present agreement, is intended to complement and not supplant national criminal jurisdiction,

Considering that the Parties have each expressed their intention to investigate and to prosecute where appropriate their nationals who are alleged to have committed genocide, crimes against humanity and war crimes,

Bearing in mind the content of Article 98 of the Rome Statute,

Hereby agree as follows:

1. For purposes of this agreement, "persons" are current or former Government officials, employees (including contractors), or military personnel or nationals of one Party; and "transfers" includes extradition, surrender or transfer by any means.
2. Persons of one Party present in the territory of the other shall not, absent the expressed consent of the first Party,
  - (a) be transferred by any means to the International Criminal Court for any purpose, or
  - (b) be transferred by any means to any other entity or third country, or expelled to a third country, for the purpose of transfer to the International Criminal Court.
3. When the Government of the United States of America transfers a person of the Republic of El Salvador to a third country, the United States of America will not agree to the transfer of that person to the International Criminal Court by the third country, absent the expressed consent of the Government of the Republic of El Salvador.

4. When the Government of the Republic of El Salvador transfers a person of the United States of America to a third country, the Government of the Republic of El Salvador will not agree to the transfer of that person to the International Criminal Court by a third country, absent the expressed consent of the Government of the United States of America.

5. Each Party agrees, subject to its respective international legal obligations, not to knowingly facilitate, consent to, or cooperate with efforts by an entity or third country, including any State Party to the Rome Statute, to effect the transfer of a person of the other Party to the International Criminal Court.

6. This Agreement shall enter into force upon an exchange of notes confirming that each Party has completed the necessary domestic legal requirements to bring the Agreement into force. It will remain in force until one year after the date on which one Party notifies the other of its intent to terminate this Agreement. The provisions of this Agreement shall continue to apply with respect to any act occurring, or any allegation arising, before the effective date of termination.

Done in San Salvador, in duplicate, this 25<sup>th</sup> day of October, 2002, in the English and Spanish languages, both texts being equally authentic.

FOR THE GOVERNMENT OF  
THE UNITED STATES  
OF AMERICA

FOR THE GOVERNMENT OF  
THE REPUBLIC OF  
EL SALVADOR



Rose M. Likins  
Ambassador



Maria Eugenia Brizuela de Avila  
Minister of Foreign Affairs